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GOODMAN v. GOODMAN.

March 13, 1919.

[98 S. E. 625.]

1. **Partition (§ 12 (1)*)—Estates Subject.**—Code 1904, § 2562, authorizes a partition suit in equity between one claiming an undivided fourth by inheritance and another an undivided three-fourths, partly by inheritance and partly by purchase.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 773.]

2. **Partition (§ 55 (2)*)—Pleading—Title.**—It is not necessary in a bill for partition to make a formal deraignment of title, or any deraignment further than is necessary to show how parties became coparceners and entitled to partition.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 810.]

3. **Partition (§ 55 (2)*)—Pleading.**—The complainant in a partition suit must aver and prove that he occupies such a relation to defendant as entitles him to invoke equity jurisdiction.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 810.]

4. **Partition (§ 56*)—Equity Jurisdiction—Dismissal.**—If bill for partition shows that complainant occupies relation to defendant entitling him to invoke equity jurisdiction, and the answer denies it, then upon a hearing on bill and answer, either with or without a replication, bill will be dismissed.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 811.]

5. **Partition (§ 56*)—Jurisdiction—Courts of Equity—Pleading.**—Although a suit for partition cannot be made a substitute for an action of ejectment, a defendant to a bill which states a good case for partition cannot defeat jurisdiction in equity merely by denying in toto and ab initio complainant's title and asserting in himself a title independent of and hostile to that under which complainant claims.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 811.]

Appeal from Circuit Court, Hanover County.

Suit by Charles H. Goodman against John A. Goodman. Decree for defendant, and plaintiff appeals. Reversed and remanded.

Haw & Haw, of Richmond, for appellant.

W. Sydnor, of Richmond, for appellee.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.